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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Landau, et al.

Serial No.: 09/595,528

Filed: June 16, 2000

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Examiner: A. Rudy

Art Unit: 3627

For: ORDER AND ACCOUNTING METHOD AND SYSTEM FOR SERVICES PROVIDED VIA AN INTERACTIVE COMMUNICATION NETWORK

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

I hereby certify that this correspondence is being facsimile transmitted to the Commissioner for Patents, Alexandria, VA 22313, on September 29, 2003.

By: Carol Prentiss

RESPONSE TO ADVISORY ACTION AND STATEMENT OF SUBSTANCE OF INTERVIEW

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Dear Sir:

SEP 29 2003

This Amendment is responsive to the Advisory Action mailed on September 11, 2003 and is Supplemental to the Amendment After Final filed on September 2, 2003 in response to the final Office Action mailed on July 2, 2003.

As a preliminary matter, Applicants hereby disagree with the Interview Summary mailed by the Examiner on September 3, 2003. The Interview Summary indicates that no agreement was reached regarding the matter discussed. It was undersigned counsel's understanding, based on the August 29, 2003 interview, that the Examiner agreed that the present claims distinguished over the Moore reference.

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Claims 1-27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Moore (US 6,330,575).

Applicants respectfully traverse these rejections in view of the following comments.

Discussion of Moore

Moore discloses a method for designing a web page for use in a distributed electronic commerce system (Col. 3, lines 31-33). In a distributed electronic commerce system as disclosed by Moore, the functions of the transaction server are by definition separated from those of the web storefront and the inventory and financial database (Col. 4, lines 43-46).

In contrast, with the present invention, each step of the electronic transaction is handled by an intermediary, which electronically processes the orders from the members, communicates the selected offerings to the service provider, and provides the organization with a consolidated invoice for all offerings ordered by its members during a predetermined time period.

The purpose of the intermediary of the present invention is to facilitate the entire transaction by: (1) providing a searchable database maintained by an intermediary of service providers and their offerings, (2) enabling the members to select a service provider from the database maintained by the intermediary, (3) allowing members to order an offering from the database maintained by the intermediary by selecting it from the database, (4) enabling the members to electronically communicate the order to the intermediary along with the billing

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information for the order, (5) electronically storing the billing information at the intermediary, (6) electronically communicating the orders from the intermediary to the service provider, and (7) after a predetermined time period, providing a consolidated invoice from the intermediary to the organization for all orders ordered by its members during that time period.

Moore does not disclose or remotely suggest an intermediary which handles each step of the process as claimed by Applicants.

Further, as discussed with the Examiner, Moore does not disclose or remotely suggest providing a consolidated invoice from the intermediary to an organization for all offerings ordered by the members of that organization during a predetermined time period, as set forth in Applicants' claims. Merriam Webster's online dictionary defines "consolidate" as follows:

Function: verb

Inflected Form(s): -dat·ed; -dat·ing

Etymology: Latin *consolidatus*, past participle of *consolidare* to make solid, from *com-* + *solidus* solid

Date: circa 1512

transitive senses

1 : to join together into one whole : UNITE

<consolidate several small school districts>

2 : to make firm or secure : STRENGTHEN <consolidate their hold on first place>

3 : to form into a compact mass

intransitive senses : to become consolidated;

specifically : MERGE <the two companies consolidated>

- con·sol·i·da·tor

In the Advisory Action, the Examiner indicates that "one offering meets Applicant's claim language regarding 'offerings'. Thus, a consolidated invoice would need be but

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one bill." Applicants' respectfully disagree with the Examiner's reading of Applicants' claim and submit that by definition, a consolidated invoice is a combination of more than one invoice.

Moore discloses that an invoice is provided to the customer after each order (Col. 5, lines 24-26). In other words, Moore discloses a one-to-one correlation between an order and an invoice. Therefore, as the invoice of Moore includes only a single order, it is not a consolidated invoice as claimed by Applicants.

In contrast, the consolidated invoice set forth in Applicants' claims is for all offerings (i.e., more than one offering) ordered by the members (i.e., more than one member) of the organization during a predetermined time period. In other words, Applicants' consolidated invoice contains orders made by more than one member of an organization, not just one order from a single customer as in Moore. Therefore, in Applicants' system, there is a many-to-one correlation between orders and an invoice. Further, the consolidated invoice of the present invention includes all orders made by the members during a predetermined time period. In contrast, Moore discloses that an invoice is sent at the time the transaction is concluded and includes only the order made at that time.

Since Applicants' consolidated invoice is for all offerings ordered by the members during a predetermined time period, the consolidated invoice may include many orders from a single restaurant on the same or separate days, many orders from multiple restaurants on the same or separate days, or a combination thereof. The advantage to

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receiving a consolidated invoice as provided by the present invention is that the organization need only pay the single invoice, rather than deal with multiple invoices from a single restaurant or multiple invoices from multiple restaurants. The system of Moore does not provide these advantages.

Moore does not disclose or remotely suggest Applicant's claimed invention. With the present invention, the intermediary provides a centralized resource in the form of an online searchable database for a member, such as an employee of a corporation, to order goods or services, such as meals, from a service provider, such as a restaurant. The intermediary also absorbs payment, collection and invoicing functions on behalf of the organizations and service providers. The distributed system of Moore does not provide any of the forgoing advantages of the present invention.

Applicants respectfully submit that the present invention would not have been obvious to one skilled in the art in view of Moore, taken alone or in combination with any of the other prior art of record. Withdrawal of the Moore reference is respectfully requested, together with withdrawal of the final Office Action.

Applicants' note that the Examiner has cited nydelivery.com as prior art to the present invention. Applicant respectfully submits that the web pages provided by the Examiner relating to nydelivery.com do not disclose the features of Applicants' independent claim 1. In particular, the nydelivery.com web pages do not disclose the provision of a consolidated invoice by an intermediary

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as claimed by Applicants. Applicants submit herewith copies of Internet articles relating nydelivery.com. As can be seen from the attached articles, nydelivery.com does not provide the organization with a consolidated invoice. Nydelivery.com provides online menus and ordering capability, but does not provide to the organization a consolidated invoice for all orders made by the members during a predetermined time period as claimed by Applicants.

Further remarks regarding the asserted relationship between Applicants' claims and the prior art are not deemed necessary, in view of the amended claims and the foregoing discussion. Applicants' silence as to any of the Examiner's comments is not indicative of an acquiescence to the stated grounds of rejection.

Withdrawal of the rejections under 35 U.S.C. § 103(a) is therefore respectfully requested.